



January 30, 2013

Chairman Krayton Kerns  
House Judiciary Committee  
Room 475  
PO Box 200400  
Helena, MT 59620-0400

**VIA: PDF**

RE: HB 269

Dear Chairman Kerns and Members of the Committee:

We are very supportive of the protection of our health care workers and believe that this bill may be part of a comprehensive approach to enhancing that protection.

We do have several suggestions.

1. In comparing the language of the bill with provisions of the Assault statute, we note the word "serious" is used with respect to the injury or harm in instances when the potential penalties are significant to the perpetrator. Here both the fine and prison time are significant. Therefore, we believe it is appropriate to include the word serious as noted on the attached copy of the Bill.
2. We also believe that the Bill should be qualified in a manner that makes it clear that it does not apply to intra-hospital workforce situations or when the person perpetrating the assault is a patient whose mental capacity may be an extenuating circumstance, such as a elderly patient in a nursing home. Further, if there were a situation, for example, of an operating room nurse in a high pressure situation who physically moved another nurse to quickly reach a necessary piece of equipment or take some other action. Any complaint by the nurse that was moved should be handled in a peer and/or human relations function context or under the general assault law. That would not seem to fit within the intent of the Bill. We would be happy to work with others to craft appropriate exceptions.
3. Finally, in researching this issue, we have studied Nebraska state law and have attached it here for your review. *Legislature of Nebraska LB 677 Section 5* also provides for posting of signs in hospitals and health clinics to advise the penalty for an assault on health care professionals.

a. LB 677-Section 5 reads as follows:

*"Every hospital and health clinic shall display at all times in a prominent place a printed sign with a minimum height of twenty inches and a minimum width of fourteen inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:*

*WARNING TO PROCESS SEEKING OR ASSISTING A PERSON SEEKING HEALTH CARE SERVICES; ASSULTING OR THREATENING A MENACING MANNER A HEALTH CARE PROVIDER ENGAGING IN THE PERFORMANCE OF HIS OR HER OFFICIAL DUTIES WILL RESULT IN MANDATORY IMPRISONMENT."*

If we can be of additional assistance please let us know. Protection of our professional staff and emergency responders is a high priority to us. We look forward to working with you.

Very Truly Yours,



Tony Patterson  
Chief Administrative Officer/General Counsel  
Kalispell Regional Healthcare



Rebecca Manna  
Chief Policy Advisor  
Government Relations  
Kalispell Regional Medical Center

jm: enclosure

CC: Karen Armstrong, Secretary, House Judiciary Committee

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 677**

Introduced by Lathrop, 12.

Read first time January 19, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to crimes and offenses; to amend section 28-310,
- 2 Reissue Revised Statutes of Nebraska, and sections 28-308
- 3 and 28-309, Revised Statutes Cumulative Supplement, 2010;
- 4 to provide penalties for assault on a health care
- 5 provider as prescribed; to define a term; to provide for
- 6 signs; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-308, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           28-308 (1) A person commits the offense of assault in the  
4 first degree if he or she intentionally or knowingly causes serious  
5 bodily injury to another person.

6           (2) Assault in the first degree shall be a Class II  
7 felony. A person who commits assault in the first degree on a health  
8 care provider while the health care provider is engaged in the  
9 performance of his or her official duties shall upon conviction be  
10 sentenced to not less than two years imprisonment.

11          Sec. 2. Section 28-309, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13          28-309 (1) A person commits the offense of assault in the  
14 second degree if he or she:

15           (a) Intentionally or knowingly causes bodily injury to  
16 another person with a dangerous instrument;

17           (b) Recklessly causes serious bodily injury to another  
18 person with a dangerous instrument; or

19           (c) Unlawfully strikes or wounds another (i) while  
20 legally confined in a jail or an adult correctional or penal  
21 institution, (ii) while otherwise in legal custody of the Department  
22 of Correctional Services, or (iii) while committed as a dangerous sex  
23 offender under the Sex Offender Commitment Act.

24          (2) Assault in the second degree shall be a Class III  
25 felony. A person who commits assault in the second degree on a health

1 care provider while the health care provider is engaged in the  
2 performance of his or her official duties shall upon conviction be  
3 sentenced to not less than one year imprisonment.

4           Sec. 3. Section 28-310, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           28-310 (1) A person commits the offense of assault in the  
7 third degree if he:

8           (a) Intentionally, knowingly, or recklessly causes bodily  
9 injury to another person; or

10           (b) Threatens another in a menacing manner.

11           (2) Assault in the third degree shall be a Class I  
12 misdemeanor unless committed in a fight or scuffle entered into by  
13 mutual consent, in which case it shall be a Class II misdemeanor.

14           (3) A person who commits assault in the third degree on a  
15 health care provider while the health care provider is engaged in the  
16 performance of his or her official duties shall upon conviction be  
17 sentenced to not less than six months imprisonment.

18           Sec. 4. For purposes of sections 28-308, 28-309, and  
19 28-310 and section 5 of this act, health care provider means a  
20 practitioner licensed or certified under the Uniform Credentialing  
21 Act.

22           Sec. 5. Every health care provider's office and every  
23 facility where health services are provided shall display at all  
24 times in a prominent place a printed sign with a minimum height of  
25 twenty inches and a minimum width of fourteen inches, with each

1 letter to be a minimum of one-fourth inch in height, which shall read  
2 as follows:

3 WARNING TO PERSONS SEEKING OR ASSISTING A PERSON SEEKING  
4 HEALTH CARE SERVICES: ASSAULTING OR THREATENING IN A MENACING MANNER  
5 A HEALTH CARE PROVIDER ENGAGING IN THE PERFORMANCE OF HIS OR HER  
6 OFFICIAL DUTIES WILL RESULT IN MANDATORY IMPRISONMENT.

7 Sec. 6. Original section 28-310, Reissue Revised Statutes  
8 of Nebraska, and sections 28-308 and 28-309, Revised Statutes  
9 Cumulative Supplement, 2010, are repealed.